

Maine Revised Statutes
Title 23: TRANSPORTATION
Chapter 3: OFFICIALS AND THEIR DUTIES

§156. HEARING BEFORE BOARD

The State Claims Commission shall immediately enter the petition of the department upon its docket and assign a date for hearing at the earliest possible date. The chairman of the board shall assign no more than 3 members of the board for hearings, one of whom shall be an appraiser and one an attorney at law. Notice of the time and place for the hearing shall be mailed by registered or certified mail to the department and to the owner or owners of record and to the holders of any mortgage, tax lien or any other encumbrance on the property involved at least 14 days before the date of the hearing. In the event the notice required is returned to the State Claims Commission marked "refused" or "unclaimed" by the United States post office, the State Claims Commission may, at its option, reschedule the hearing by giving the notice required in this paragraph, or it may cause the matter to be heard on the day originally scheduled by causing service to be made upon the party not served by certified or registered mail in a manner allowed for service of a summons on a complaint in the Superior Court, which notice shall be served at least 5 days before the originally scheduled hearing. The hearing shall be held in quarters suitable for a full presentation of all evidence and located as conveniently as possible for all interested parties in the county where the land is situated. Before making an award, the State Claims Commission shall view the property involved with or without the presence of the interested parties, but it shall first notify the interested parties of the time when it will view the property. The department shall be represented at the hearing and may present in open hearing evidence as to title, engineering maps and data, and its opinion, evidence and appraisal or appraisals as to the fair market value of the property involved before and after the taking. In all matters where a verbatim record of the proceedings is made by an official board reporter, a transcript of the same shall be furnished to the interested parties, upon request, and upon payment of a reasonable charge for transcribing and preparing such record. In making its award, the State Claims Commission shall not be limited by the range of testimony produced before it but may reach its decision on the basis of the view, the testimony and its own judgment. The State Claims Commission may continue a hearing from time to time for cause shown or by agreement of parties; and where such continuance is made at the request of the landowner, may require that interest be waived for the period of the continuance. [1987, c. 395, Pt. A, §98 (AMD).]

As promptly as possible after the conclusion of the hearing, the State Claims Commission shall make an award in writing specifying: [1987, c. 395, Pt. A, §98 (AMD).]

1. Owners and encumbrances. The owner or owners of record and the holder of any mortgage, tax lien or other encumbrance of record;

[1965, c. 297, §6 (AMD) .]

2. Nature of interest taken. The nature of the interest taken;

3. Commission's decision on elements of damage. The State Claims Commission's decision as to each of the elements of damage listed in section 154, subsection 2 or 3, or the elements of damage as set forth in section 154, subsection 4, and such other elements of damage as are legally compensable;

[1987, c. 395, Pt. A, §98 (AMD) .]

4. Gross damage. The gross damage which shall be the net damage not including interest;

[1965, c. 297, §7 (RPR) .]

5. Net amount of award. The net amount of the award which shall be the net damage less the amount paid the owner or owners at the date of taking;

[1965, c. 297, §8 (NEW) .]

6. Interest on award. The interest, if any, due on the net amount of the award from the date of taking to the date of the award;

[1965, c. 297, §8 (NEW) .]

7. Award. The award which shall be the net damage, less the amount paid the owner or owners at the date of taking plus interest on the net amount of the award; and

[1981, c. 470, Pt. A, §130 (AMD) .]

8. Withholding. The withholding, if any, authorized pursuant to section 244-A, subsection 4.

[1973, c. 22, §1 (NEW) .]

No interest may be allowed on so much of the net damage that has been paid to the owner or owners. [1991, c. 684, §2 (RPR).]

An attested copy of each award must be sent immediately to the Department of Transportation and to the party or parties named in the award. The State Claims Commission shall state by letter sent to all parties the date it issues its decision of the award. If no appeal is taken within 30 days of the date of issuance of the commission award pursuant to section 157, the Department of Transportation shall, within 60 days from the date of issuance of the commission award, pay the awarded amount to the party or parties named in the award. [2009, c. 265, §3 (AFF); 2009, c. 265, §1 (RPR).]

Service as required by this section must be made in the manner prescribed by Rule 5 of the Maine Rules of Civil Procedure. [1991, c. 684, §3 (RPR).]

Upon certification by the Department of Transportation that after due diligence the address of owners of record can not be determined or when the State Claims Commission notice by mail is returned to the commission unclaimed or unknown or where personal service can not be made, the chair of the commission may order service by publication. Notice of the time and place of the review and hearing must be published once in a newspaper of general circulation in the county in which the subject property is located. The commission shall then proceed with the hearing as in other cases and the appeal provisions must be available to the Department of Transportation and the record owner or owners, or any one of them, who appears and makes application for appeal pursuant to section 157. [1991, c. 684, §4 (AMD).]

The chair of the State Claims Commission may appoint a guardian ad litem to protect the interest and rights of any minor or incompetent persons notified under this section and determine and set reasonable compensation for that guardian ad litem. This compensation must be paid by the Department of Transportation. [1991, c. 684, §5 (NEW).]

After the appeal period from the decree of the State Claims Commission or a judgment of any court has expired, any sum of money directed by a decree of the commission or by a judgment of any court to be paid over that remains unclaimed for 60 days must be disposed of consistent with Title 33, chapter 41. [1997, c. 508, Pt. A, §3 (AFF); 1997, c. 508, Pt. B, §5 (AMD).]

Notwithstanding Title 1, section 302, this section applies to all actions and proceedings pending on September 14, 1979. [1991, c. 684, §7 (AMD).]

SECTION HISTORY

1965, c. 297, §§6-9 (AMD). 1965, c. 473, §§2,3 (AMD). 1971, c. 593, §22 (AMD). 1973, c. 22, §1 (AMD). 1973, c. 686, §2 (AMD). 1975, c. 771, §§240-245 (AMD). 1977, c. 78, §157 (AMD). 1979, c. 487, §§2-5 (AMD).

1981, c. 470, §A130 (AMD). 1987, c. 395, §A98 (AMD). 1991, c. 684, §§2-7 (AMD). 1997, c. 508, §B5 (AMD). 1997, c. 508, §A3 (AFF). 2009, c. 265, §1 (AMD). 2009, c. 265, §3 (AFF).

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